

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

LAWRENCE M. HILL,

Plaintiff,

v.

BAC HOME LOANS SERVICING, L.P.,

Defendant.

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Civil Action No. **3:13-CV-3044-L**

ORDER


Before the court is Defendant Bank of America's Motion for Summary Judgment (Doc. 6), filed December 13, 2013. On May 6, 2014, Magistrate Judge David L. Horan entered the Findings, Conclusions and Recommendation of the United States Magistrate Judge ("Report"), recommending that Defendant's motion be granted and this action be dismissed in its entirety with prejudice. No objections were filed to the Report.

Plaintiff filed no response in opposition to Defendant's summary judgment motion. This failure, of course, does not permit a court to enter a "default" summary judgment. *Eversley v. MBank Dallas*, 843 F.2d 172, 174 (5th Cir. 1988). When no response is filed, such failure does permit the court to accept as undisputed the evidence set forth in support of a movant's motion for summary judgment. *Id.* Normally, "[a] summary judgment nonmovant who does not respond to the motion is relegated to his unsworn pleadings, which do not constitute summary judgment evidence." *Bookman v. Schubzda*, 945 F. Supp. 999, 1002 (N.D. Tex. 1996) (citing *Solo Serve Corp. v. Westowne Assocs.*, 929 F.2d 160, 165 (5th Cir. 1991)). Allegations in a verified complaint, however, may serve as competent summary judgment evidence. *Stauffer v. Gearhart*, 741 F.3d 574, 581 (5th Cir. 2014); *Hart v. Hairston*, 343 F.3d 762, 765 (5th Cir. 2003).

In this case, Plaintiff's pleadings in his Original Petition are verified. He may therefore rely on the facts alleged in his pleadings on summary judgment. *Id.* Although the Report includes a summary judgment standard applicable to unsworn pleadings, the court concludes that the result reached by the magistrate judge is correct because Plaintiff's allegations do not raise a genuine dispute of material fact with respect to any of his claims, which are all essentially based on a claim to quiet title in his name. Defendant is therefore entitled to judgment as a matter of law on Plaintiff's claims based on quieting title.

Accordingly, after reviewing the motion, Defendant's evidence, the record in this case, the Report, and applicable law, the court determines that the findings and conclusions of the magistrate judge are **correct** *except to the extent as above noted*. The court therefore **accepts, as modified**, the findings and conclusions of the magistrate judge, **grants** Defendant Bank of America's Motion for Summary Judgment (Doc. 6), and **dismisses** this action **with prejudice**.

It is so ordered this 21st day of May, 2014.


Sam A. Lindsay
United States District Judge